THE HON'BLE MR JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.22208 of 2007

17.10.2007

BETWEEN

Kummari Rameswaramma and others.

…….Petitioners

AND

The Mandal Revenue Officer, Alur Mandal, Alur, Kurnool District and another.

…….Respondents

THE HON'BLE MR JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.22208 of 2007

ORDER:

This writ petition is filed for a writ of Mandamus to set aside the notices, dated 05.10.2007 and 07.10.2007, issued to the petitioners under Section 7 of the A.P.Land Encroachment Act, 1905 (for short 'the Act').

The petitioners claim to be in possession of the properties situated in Survey No.748 of Alur Village and Mandal, Kurnool District. They have averred that they constructed shops, hotels, houses and huts on the lands in their respective occupation. On the ground that a Division Bench of this Court in a writ

petition filed in public interest directed the officers concerned in the State to evict the encroachers of water bodies, separate notices have been issued to the petitioners under Section 7 of the Act to show cause as to why they shall not be evicted. Questioning these notices, the petitioners filed the present writ petition.

Heard Sri D.Vijay Kumar, learned counsel for the petitioners, and perused the records.

A perusal of the impugned notices shows that respondent No.1 issued them on the allegation that each of the petitioners is in occupation of certain extents of land classified as cheruvu (tank) poramboke.

Under Section 7 of the Act, before causing eviction of any person in occupation of the Government property, a notice is required to be issued and after considering the explanation, the competent authority shall pass an order under Section 6. If a person is aggrieved by an order passed under Section 6, he has remedy of appeal under Section 10.

It is not the case of the petitioners that respondent No.1 is not the competent authority to issue notices and exercise power under the provisions of the Act to pass appropriate orders for eviction of unauthorized occupants of Government land. Therefore, this Court ordinarily does not interdict an action initiated by a statutory authority at the stage of a notice. The petitioners have not made out any exceptional case warranting deviation from this settled principle. It is always

open to the petitioners to submit their explanation and if any order adverse to their interests is passed, they can avail the remedies available in law. Since the writ petition is premature, I am not inclined to entertain the same.

The learned counsel for the petitioners submitted that since the petitioners have not filed the explanations so far, they may be permitted to file their respective explanations before the competent authority. The request of the learned counsel is accepted and the petitioners are granted a week's time to submit their explanations. Respondent No.1 shall consider their explanations on merits and pass appropriate orders.

The writ petition is accordingly dismissed. No costs.

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C.V.NAGARJUNA REDDY, J

17.10.2007
Note: Issue CC in two days.
(b/o)
VGB/KLP